

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CV-662-D

POLYZEN, INC.,)
Plaintiff,)
v.) **ORDER**
RADIADYNE, LLC,)
Defendant.)

October 30, 2013, the court held a hearing on pending motions. As discussed in open court and incorporated herein by reference, the court made the following rulings:

1. Polyzen, Inc.'s motion for leave to file a first amended complaint [D.E. 42] is GRANTED. Polyzen, Inc. shall file its first amended complaint no later than November 6, 2013. RadiaDyne, LLC shall respond in accordance with the Federal Rules of Civil Procedure.
2. Polyzen, Inc.'s motion to consolidate [D.E. 43] is DENIED.
3. RadiaDyne, LLC's motion for partial summary judgment on inventorship [D.E. 65] and Polyzen, Inc.'s cross-motion for partial summary judgment on inventorship [D.E. 72] are DENIED.
4. The court GRANTED the joint motion for a claims construction hearing [D.E. 71]. At the conclusion of the hearing, the court concluded that the terms "medical balloon device", "first material", "second material", "a second edge joined to the first edge", "third material", and "a third edge joined to the second edge" are terms composed of common English words which do not have different technical meanings to persons of ordinary skill in the art. See, e.g., Phillips v. AWH Corp., 415 F.3d 1303, 1312–18 (Fed. Cir. 2005) (en banc); Interactive Gift Express, Inc. v. Compuserve Inc., 256 F.3d 1323, 1331–33 (Fed. Cir. 2001) (en banc).

5. The parties shall confer on a proposed trial date and submit any suggestions concerning the remaining schedule no later than November 6, 2013.

6. Polyzen, Inc. withdrew its motion for a preliminary injunction [D.E. 50].

SO ORDERED. This 31 day of October 2013.



JAMES C. DEVER III
Chief United States District Judge